

DRIVING LICENSE

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Driver is the person who acts as a steersman of the driving vehicle and driving license is the licence other than learners licence authorised to drive Motor Vehicle of the specified class or the description.

Section 3 of MV Act 1988 read with the Insurance Policy Conditions stipulates-

1. Every one is required to have effective driving licence to drive a vehicle in public place.
2. Every one is required to have specified permission to drive a transport vehicle.
3. The person should not be disqualified from holding such licence.

License should satisfy two requirements of being effective and being qualified. The effectiveness is both for duration and type where as the qualifications are the pre requisites a person should have to possess a particular class of licence. The table below states the parameters of effective and qualified license of different category.

DL SHOULD SATISFY THE FOLLOWING CRITERIA TO BE VALID LICENCE FOR INSURANCE CLAIM					
Effectiveness			Qualification		
Sec 10	(TYPE)	Duration	Min Age	Educatio n	Others
(a)	M/Cy with Max 50 CC	Licence is below 50 years of age- 20 years or attaining of 50 yrs of age whichever is earlier. Licence is above 50 yrs of age- 5 years	16 years	NA	No
(b)	M/Cycle with gear		18 years		
(c)	Invalid carriage				
(d)	Light Motor Vehicle				
(e)	Transport Vehicle	3 years	20	4 th class	Medical required
(f)	Road Roller	3 years	20 years	-----	Medical required
(g)	Motor Vehicle of specified Description	Depends of Vehicle	Depends of Vehicle	NA	Depends of Vehicle
Learners Licence		6 months	Depends on vehicle	Depends on vehicle	Depends on vehicle
Expired Licence		30 days	NA	NA	
Endorsement to carry Hazzardous Goods		One year	20	10 th Class	Medical/ Trasport Veh Licence / English and one language from schedule VII

Amendment 1994 in MV Act 1988 (effective from 14-11-1994)

- The word “Without Gear has been replaced with upto 50 CC”
- Medium Goods Vehicle/Medium Passenger Vehicle and Heavy Goods Vehicle/Heavy Passenger Vehicle have been replaced by a single entry “Transport Vehicle”

Validity of different categories of licences

Learners Licence –

The holder of the Learners Licence can drive the vehicle of entitled class if the following conditions are fulfilled – (Rule No 3 of central motor vehicle rules 1989)

1. If the person holding valid Driving licence is sitting on the side of the holder of Learners Licence in such a way that he is in a position to control the vehicle if situation so requires.
2. There should not be any person with the learner except as stated above in case of two wheeler (e.g. Pillion rider)
3. The vehicle is not used for carrying goods or passengers at the same time.
4. The word “L” is prominently displayed at the front and the rear portion of the vehicle with the following specification

L Board Size

L

 18 cm with white background
Letter Colour RED
Letter Size height 10 cms. Width 9 cms. Thickness 2 cms

Section 10 (a) Motor Cycle upto 50 CC

This class of vehicle entitles the holder to drive the two wheeler upto 50 CC. This category has replaced the earlier category “Motor cycles without gear vide MV Act amendment in 1994

Position of Vehicles above 50 CC but without gear

There are some vehicles with capacity more than 50 CC but are without gears such as ‘ACTIVA” Strictly speaking the holder of the above category licence can not drive the vehicles above 50 cc. Though it may or may not be without gears.

However there are still cases where Transport authorities issue the licence category as Motor Cycle without gear notwithstanding the amended version effective from 14-11-1994. The minimum age is also considered as 16 years in such cases. Therefore the holder of such licence is entitled to drive all the without gears two wheelers irrespective of cubic capacity of the vehicle which may even be more than 50 CC. However there should be specific mention of the Motor Cycle without gear on the licence.

Section 10 (b) Motor Cycle with Gear

1. Holder of this class of licence can drive any type of two wheeler with or without the gear.
2. He is also authorised to drive the two wheeler with attached side car with extra wheel attached to the Motor Cycle {Sec 2 (27) of MV Act 1988}
3. There are some places where the two wheelers are also used for hire and reward purpose. In such cases it becomes a transport vehicle. Thus the public Service vehicle endorsement will be required to drive such vehicles.

Licence to drive	Vehicle upto 50 CC(with gear)	Vehicle upto 50 CC (Without gear	Vehicle above 50 CC with out gear
Motor Cycle upto 50 CC	Yes	Yes	No
Motor Cycle without gear	No	Yes	Yes

Section 10 (C) Invalid Carriage

The definition of invalid carriage as stated in section 2 (18) of MV Act 1988 reads as under-

Invalid carriage means a motor vehicle specially designed and constructed and not merely adopted for use of a person suffering from some physical defect or disability and used solely by or for such a person.

Therefore it is clear that the person holding the licence to drive invalid carriage can only drive a vehicle specially manufactured for the use of a person suffering from some physical defect or disability.

Further a person suffering from disability will also require such licence if he himself is driving such vehicle.

Section 10 (d) Light Motor Vehicle

Person holding such a licence can drive any vehicle (other than two wheeler) of below stated description-

1. Transport vehicle or Omnibus with gross vehicle weight upto 7500 Kgs.
 2. Motor Car, Tractor, Road Roller with Unladen weight upto 7500 Kgs.
- Now all the vehicles with the above specifications will come under the purview of LMV.
 - The agriculture tractor is a non transport vehicle when used as agriculture implement or for transportation of agriculture related goods. Thus it comes under the ambit of LMV Category of LMV Licence. {Section 2 (1) (b) Central Motor Vehicle (amendments) rules 1993.}. However Authority also issues separate licence for tractors under 10 (2) g of MV ACT 1988.

The holder of LMV licence is authorised to drive Motor cab (vehicle used to carry less than 6 passengers excluding the driver for hire and reward) hired for his own use or rented under any scheme made under section 75 (2) of MV Act 1988

Whether LMV licence is valid for the vehicles used for commercial used for commercial purpose e.g. Taxi, Tata 407

The definition of LMV covers the transport vehicle. Further the transport vehicle covers the public service vehicles/goods vehicles also as per sec 2 (47) of MV Act 1988. SO one can easily draw instant interference that the LMV covers all the above stated vehicles may it be used for commercial or private purpose. However the position is different.

Any section in statute can not be read in isolation and are to be read and understood in relation to the other existing provisions of the act. Section 3 of the MV Act 1988 stipulates the specific authorization to drive to drive the Transport vehicle. This provision is therefore to bifurcate the transport and non transport categories of licences each with different requirements.

Insurance policies not only talk of the effective licence but also add that a person should not be disqualified to hold the required licence.

We find that non transport licence may be ineffective or disqualified if tested on the parameters fixed for issuance of Transport vehicle Licence e.g. age, qualification, medical test etc.

Comparative Study of Time validity/Qualification for Transport/non Transport category licence

Type	Duration	Age	Education	Medical
Non Transport Vehicle	More than 3 years	18	NA	NO
Transport Vehicle	3 years	20	4 th /10 th	yes

So actual entitlement of LMV licence depends on the above basis, which in fact clarifies the intention of the Transport authorities, what the licence to be used for. The chart below is to show the types of LMV Licences/types of vehicles authorised to be driven so long it is within the definition of LMV.

Type of Licence	Vehicles entitles to be driven by the Licence Holder		
	Private	Commercial	
		Passenger Carrying	Goods Carrying
LMV-validity more than 3 yrs	Yes	No	No
LMV + PSV Endorsement	Yes	Yes	No
LMV + Transport vehicle endorsement	Yes	Yes	yes
LTV validity less than 3 years	Yes	Yes	yes

1. **Auto Rickshaw**- Authorities issue separate licence for Auto Rickshaw under 10 (2) g of MV Act 1988. Otherwise person will require LMV Licence with PSV or Transport Licence endorsement to drive Auto Rickshaw.
2. **“Authorised to pay as paid driver” on licences** - The MV Act 1939 contained section 7 (1) iii and 7 (3) mentioning such word but same has appeared in MV Act 1988 and thus word is now obsolete and in no way affect the entitlement of the driving licence.

Vehicles – T category/ F category

These days the transport authorities are issuing T/F category to certain passenger carrying vehicles. The category is based on use and capacity of the vehicle.

1. **T category** - To all the contract carriage (passenger carrying e.g. Taxi) may it be Motor Cab or Maxi Cab.
2. **F category** - To all private service vehicles.

The T series vehicles are commercial vehicles and the F series vehicles are private service vehicles. Both the categories may include LMV as well as higher category of the vehicles. No DL specifications laid down for such vehicles. The validity of licence has to be searched through MV Act only.

1. **LMV Licence without PSV endorsement** – If the use is private and weight specification is within the definition of LMV
2. **LMV licence with separate PSV endorsement** – If the use is commercial and weight specification is within the definition of LMV.
3. **Transport vehicle licence (section 10 (e))** – If the weight specification is beyond the definition of LMV then the transport vehicle licence shall be required. This is because the upgraded category applicable after LMV is only Transport vehicle, which has replaced all medium/heavy vehicles. This is irrespective of use may be private/public.

Ambulance –

The ambulance is used for –

1. **Hire or reward** - when it is used for hire and rewards it is used as commercial vehicle.
2. **Hospitals** – When it is used for Hospitals then it becomes a private service vehicle. Further even if it is used hospitals as private service vehicles, service of it is being charged separately in hospitals or is given as value added service to the patients. So both the situations are commercial propositions.

Ambulance is thus a commercial vehicle and therefore PSV endorsement will be required LMV for the vehicles coming under the weight specification of LMV.

Further there has to be Transport vehicle licence if the ambulance is of higher weight specification than LMV. This is because the next higher category applicable after the LMV is only Transport Vehicle which has replaced all medium/heavy vehicles.

Section 10 (e) Transport Vehicle

Transport vehicle has replaced the following category of the vehicles vide amendment 1994 in MV Act 1988 wef 14-11-1994

1. Medium Goods Vehicle
2. Medium Passenger Motor Vehicle
3. Heavy Goods Vehicle
4. Heavy Passenger Motor Vehicle.

Further the word Transport vehicle has been defined in sec 2 (47) of MV Act 1988 as –

Transport vehicle means a public service vehicle, a goods carriage, an educational institutional Bus or a private service vehicle. It means it covers following four categories of vehicles –

1. Public Service Vehicle
2. Goods Carriage
3. Educational Institutional Bus
4. Private service vehicle

Thus the holder of Transport vehicle licence is allowed to drive any medium/heavy vehicle coming under Public Service vehicle, goods carriage, educational institutional Bus, and Private Service vehicle.

Further the transport Vehicle licence can not be give unless one has held the LMV licence for at least a year. It is thus needless to mention that the holder of Transport vehicle licence can drive any LMV vehicle as well may be goods or passenger carrying.

Tankers carrying Hazardous goods

There are certain specifications imposed on the vehicles carrying the hazardous chemicals. The chemicals have been enumerated in chapter V section 137 (Table 2-3) Motor vehicles rules 1989.

Motor Vehicle Act 1988 as amended in 1994 speaks about the endorsement on the licence to drive vehicle carrying hazardous goods. The period of such currency is one year. The provisions have been detailed in central Motor Vehicle Rules 1989 as amended in 1993.

Rule no 9 read with 129 to 137 describes the duties, precautions, to be taken by the owner of the goods, the insured and the driver. India Motor Tariff (AIMT) effective from July 2002 also details the prerequisites fro driving of such vehicle.

Following qualifications required for driver to get the stated endorsement on the licence-

1. Minimum age – 20 years and should hold the licence to drive transport vehicle.
2. He should know English and one of the vernacular language (sechedule VII) to understand the directions written to handle the hazardous goods.
3. Minimum qualification – Matriculation
4. 3 days training from recognised Institute.

Central Motor Vehicle Rules 1989 stipulates that the training school for imparting training to handle hazardous goods will be set up by the state government. Thus it is the prima facie duty of the state to provide such facility and then only one can think of getting his licence endorsed to drive Hazardous goods.

There have been many deliberations on the subject. One such important meeting was held in 1997, which was attended by all the General Managers (Technical) of PSUs. It was agreed in the meeting as under –

1. Where such training facility has not been provided by the state government than the claim will be payable without such endorsement.
2. If the state Government has set up such facility then the claim should be settled on merits.

If any government has not set up such center, but has authorised any oil company to conduct such training then state Government has thus complied with the provisions of the Central Motor Vehicle Rules 1989 in respect of setting up of an institution.

Therefore every licence issued in such state has to have the required endorsement on Transport Vehicle licence “ Authorised to drive the vehicles carrying hazardous goods” to qualify the DL entitled to drive vehicle carrying Hazardous goods.

Non- possession of Endorsement -

There are two steps involved in issuance of DL with endorsement to drive vehicle carrying Hazardous goods.

- First, is to get the Transport Vehicle Licence
- Second to get endorsement on it.

If the DL is without endorsement then it is construed that the driver has not undergone the training to handle hazardous goods. So claim has to be dealt accordingly on merits. It is further to see whether the accident could have been avoided had there been trained driver.

- If yes then the claim is repudiated and
- If no then the claim can be processed on non – standard basis taking the breach as immaterial.

However the practice shall vary from company to company.

Requirement of PSV endorsement to drive passenger Vehicle

There is some confusion on the subject as some insist on requirement of PSV endorsement on Licence to drive Transport Vehicle in case of Bus/Medium passenger vehicles. Before we deal with the subject let us examine the definition of Transport Vehicle:

Transport Vehicle means a Public Service Vehicle, a goods carriage, an educational institution bus or private service vehicle.

We see that Public Service Vehicle is already there so there is no further requirement of PSV endorsement on licence to drive transport vehicle when used to drive passenger carrying vehicle.

The transport Vehicle category has been inserted as single entry as single entry in place of earlier following class of vehicles-

1. Medium Goods Vehicle
2. Medium Passenger Motor Vehicle
3. Heavy Goods Vehicle
4. Heavy Passenger Motor Vehicle.

Further the Transport Vehicle includes the following –

1. Public Service Vehicle
2. Goods Carriage
3. Educational Institutional Bus
4. Private Service Vehicle.

Therefore a person is entitled to drive Transport Vehicle can drive any type of above stated vehicle of any nature and capacity without having any PSV endorsement.

However there are still licences being issued unconventionally to section 10 of MV Act 1988 but are accepted as the same have been issued by the transport Authorities. However such licences are dealt with as entitled only (i.e. goods carrying for goods carrying vehicle and passenger for passenger vehicle)

Type of licence	For passenger carrying	For Goods Carrying
HTV	Yes	Yes
HMV	Yes	Yes
HGV	No	yes
HGV + PSV endt.	Yes	Yes
HPV	Yes	No
HPV + Transport Vehicle endt.		

Heavy Motor Vehicle specifies Heavy Vehicle and does not distinguish between goods and passenger category. It is taken as Heavy Transport Vehicle.

Requirement of Badge Normally it is presumed that all the drivers driving Public Service Vehicles further require Badge in addition to their entitled licence but position is not so.

Motor Vehicle Act 1988 does not make it mandatory for a driver to get any badge endorsement on any licence. Central Motor Vehicle rules 1989 also does not provide the requirement of Badge, though it contains space in Form 6 and Form 7 meant for issuing a Driving Licence.

Section 28 (2) (d) empowers the state government to make rules regarding issuance of Badges. The stipulation states –

“The badges and uniform to be worn by the drivers of Transport Vehicles and the fees to be paid in respect of badges.”

In view of different states Rules it may be concluded that the issue of Licence to drive Transport Vehicle and the issued of badge are two different acts wherein-

- Former involves the qualification and age of competence and
- Later involves just a formality, may be just for identification purpose to indicate who is driver of the vehicle.

Possession of the badge is thus in no way connected to the skill or competence of driving and therefore non-possession of badge is in no way to be taken as lack of skill or competence to drive. So the licence without badge is perfectly a valid licence.

Section 10 (f) Road Roller Only holder of such licence can drive the road roller.

Section 10 (g) Motor Vehicle of specified Description

Under this category the authority specifies the particular vehicle not included in any of the category of vehicles from section 10 (a) to Section 10 (g) of MV Act 1988 as amended in 1994 e.g. Auto Rickshaw, tractor etc.

Article has treated the subject with Motor Own Damage perspective

The interpretation of DL provision in MACT cases varies from judgment. Ruling of apex court in NIC V Swaran Singh (2004) is an eye opener for DL provisions – (expired, fake, invalid licences)

1. The claim has to be paid to claimant by the insurance company even in breach cases.
2. Insurers has to prove that that the breach was in the knowledge of the insured.
3. and if proved so, then recover it from the insured.